

From: [Angelbeck, Richard](#)
To: [Neighbors For Environmental Justice](#)
Cc: [Wagner, Anna](#); [Miller, Patrick](#); [Kierys, Dawid](#); [Lasky, Lara](#); [Nwia, Jacqueline](#)
Subject: RE: Possible Improper EJ Review for MAT Asphalt LLC New Source Permit
Date: Thursday, May 31, 2018 8:59:00 AM

Hello **Non-responsive**,

Thank you for sharing your concerns regarding the process that IEPA followed when it granted an air permit for MAT Asphalt LLC. Specifically, you are concerned that IEPA may have not followed its policy regarding the permitting of facilities located in EJ areas. You have requested "possible federal oversight or intervention in this construction permit and further permitting and monitoring of this operator." We appreciate you raising these concerns to us. Because IEPA is the permitting authority for this facility and your concerns relate to IEPA's implementation of its internal policy, we have forwarded your concerns to IEPA for follow up as appropriate. We understand you have already been in touch with IEPA's EJ Officer, Chris Pressnall. We encourage you to continue communicating with Mr. Pressnall about these and similar issues since IEPA is in the best position to address your specific concerns.

Thank you,

Rich Angelbeck

EPA, Region 5

Air Permits Section

312/886-9698

From: Neighbors For Environmental Justice [mailto:neighbors4environmentaljustice@gmail.com]

Sent: Tuesday, May 22, 2018 10:24 AM

To: Wagner, Anna <wagner.anna@epa.gov>; Miller, Patrick <miller.patrick@epa.gov>; Angelbeck, Richard <angelbeck.richard@epa.gov>; Kierys, Dawid <kierys.dawid@epa.gov>; Lasky, Lara <lasky.lara@epa.gov>; Nwia, Jacqueline <nwia.jacqueline@epa.gov>

Subject: Possible Improper EJ Review for MAT Asphalt LLC New Source Permit

Greetings,

My name is **Non-responsive**, I am resident of the McKinley park neighborhood in Chicago and a member of a newly formed neighborhood group called "Neighbors for Environmental Justice".

I am writing on behalf of our group and other residents of the 12th ward with serious concerns regarding a recent IEPA action in granting an air permit for a new source operator, specifically MAT Asphalt LLC located at 4010 S Damen Ave. in Chicago.

According to IEPA information this new source is located within an established Environmental Justice (EJ) area. IEPA policy regarding EJ areas is clearly stated on their website, (<http://www.epa.illinois.gov/topics/environmental-justice/ej-policy/index>) and contains basic guidelines such as:

- "Illinois EPA will encourage the permit applicant to meet with community stakeholders to promote open dialogue early in the permitting process for permitting actions likely to be of significant public interest."
- "The applicant is encouraged to provide notice to residents located in an area of EJ concern of the proposed project and provide basic information about the project to interested community members."
- "The applicant is also encouraged to develop a Community Relations Plan to structure ongoing dialogue with neighboring communities."
- "The Illinois EPA and/or the source may hold an informational meeting or availability session."

- “Illinois EPA will make fact sheets available on the Agency’s webpage.”

As an active resident in my community, I am sorry to report that none of these policies were attempted. There is no record of any of these actions, which we assert can be verified.

For example, there was no specific outreach to community stakeholders, no early dialogue offered by the company, no information provided to community members orally or in writing, no community relations plan was formed and presented, and no meeting with the IEPA has occurred as of yet, and certainly not prior to issuing a construction permit on October 26th of 2017. In fact, residents in our EJ area did not learn of this permit until witnessing the construction in March 2018. Below represents the first major disclosure to our community in the form of a local news story, as well as the concerns of a local citizen who lives within .25 miles of the site.

<https://mckinleypark.news/news/275-asphalt-manufacturer-community-members-engage-concerns-and-plans-around-new-plant>

<https://mckinleypark.news/news/250-opinion-editorial/286-our-neighborhood-deserves-advance-notice-of-major-new-development>

Thus far we have had to organize and hold our own meetings to learn more information on the plant after watching it being erected in March, rather than being approached by the operators or IEPA:

<https://mckinleypark.news/news/287-neighbors-panelists-debate-asphalt-plant-project-at-community-meeting>

We are sad to recognize that these are “encouraged” statements, rather than firm requirements, but the one “will make” statement presented by the IEPA is still violated: a fact sheet on this operation is still not available on the IEPA website, and no one has heard from the IEPA until I reached out to them last week for more information. I have my emails with the IEPA attached in this email to show that dialogue.

There is a second significant issue we wish to bring to your attention, which is the content of internal IEPA emails during the permitting process. Attached in this email is results of a FOIA request my group has obtained. Within it several facts are clear:

- IEPA acknowledges that they did not make an attempt at an EJ outreach until October mid days before the permit was due to be approved, when the permit was put into process in July and the outreach should have begun then (page 8, 13, 19, 35). They realized they never submitted the EJ review and stated they “dropped the ball” (17). They state they wanted an “expedited review” due to their own problems with submitting the EJ review (31). This shows a full and proper EJ review and outreach was not conducted for a new source in an EJ area due to their inaction, and the remedy was an expedition of the review instead of delaying the permitting.
- Due to a request of a consultant representing the plant (page 4,6) the IEPA acknowledges that this expedition less than ideal because this is a new source in an EJ area (31). They state that they will reluctantly move forward if this permit must be granted by late October “without delay”.
- Overall the expedited EJ review that IEPA conducted was very short in which physical mail was sent to a limited number of individuals (21), and beyond sending physical mail they did not conduct active outreach to the community. They also did not provide guidance to the company on conducting outreach to the community during this shortened period, which would have met some of their guidelines listed above.
- This outreach was started with dropping off the letters on October 12th (24) and concluded during the morning of the 26th, (49), meaning that the actual time for contacted stakeholders (in receiving the letter through physical mail, and accounting for weekends) was about 8 business days total. This time frame

represents the entirety of the EJ review for this new source operator in an EJ area.

Overall the picture within the FOIA request is that A) the IEPA did not follow their due procedure in granting this permit in an EJ area (they expedited it under duress of failing to meet their deadline, they did not start EJ review in July when permit was submitted) B) The actual time frame was extremely limited for any potential response (8 business days assuming prompt receipt and reading) and C) This was occurring while a consultant representing the new source was emailing and pushing for a timely completion of the permit review, which was being held up due to the lack of EJ review. This represents priority of the interests of the company and consultant rather than the interests of the community in providing appropriate notice and time to comment. It is clear the EJ review is rushed, and that there is even reservation within the IEPA office about this procedure due to the nature of the permit.

We wish to make a further comment on the overall EJ review procedure conducted by the IEPA. It seems that their procedure involves sending physical mail to specific stakeholders, assuming that mail is received without verification or further outreach to answer additional questions, and then moving forward with the request if no response is made to the letter. We feel this is insufficient, and assumes many things such as accurate records of current stakeholders (i.e., that person still works there, that the organization is still active), accurate addresses, and receipt and reading of the EJ notice (i.e., someone could have been on vacation, in the hospital, or on temporary leave out of the office during that extremely short 8 day period, or the position could even be temporarily vacant).

Additionally, as a citizen outside of this group, I wish to inform you I have actively contacted individuals on the EJ list to determine if they have received the letter. I did this because our state representative Theresa Mah stated she could not find her copy in this news story:

<https://mckinleypark.news/news/275-asphalt-manufacturer-community-members-engage-concerns-and-plans-around-new-plant>

I am reporting that not one individual on that list has provided me with positive confirmation that they received the EJ letter. Most have not responded, begging the question of whether these contacts are up to date and valid for EJ outreach. Others have responded and stated that they receive so much mail and related requests that they cannot possibly sort through them or respond. Two individuals on the receipt list who looked claimed they have no record of the EJ letter, including Theresa Mah (state representative) and the American Lung Association, Illinois.

I would be glad to share this information with you, such as who I contacted or what the sources for this information is. We believe this illustrates current IEPA procedures are insufficient for properly issuing new permits to operators in EJ areas generally, beyond the specific problems with this specific expedited outreach of a new source.

A final issue related to the EJ outreach process is the fact that the letter itself is non specific, it does not identify any potential reason for concern (i.e., in our case the operator is directly across from a park, within 1,100 feet of the nearest residence, and within 1,300 feet of a school), it does not provide a map or reference for why an individual might care to inquire, it is simply a statement of bare minimum fact related to the permit (i.e., it states that it is a hot mix asphalt plant; not the size, not the relation of the location to areas of concern like parks, residences, or schools, not the production levels, not the pollution which may be of concern, not the amount of pollution, not the populations which may be effected). That letter is attached here in the email, and appears from our reading it is far too vague for stakeholders to make a determination if they should do community outreach. In many ways if even stakeholder did receive the letter, it is easy to see why no one reached out to our community or asked questions.

On the face of it, our group finds this process to be insufficient and grossly out of step with the mission of EJ outreach in the first place, which according to the IEPA is to provide "the provision of adequate opportunities for meaningful involvement of all people with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."

It is with great regret that I report that the result of this is that my group and neighborhood is currently faced with a newly permitted operator who has a construction permit allowing production, who is fully constructed within our neighborhood, who is already securing contracts with the city of Chicago:

<https://mckinleypark.news/news/302-tadin-to-pave-damen-local-group-announces-air-quality-monitoring>

We assert to you, members of the federal EPA, that no sufficient outreach was conducted, basic procedures appear not to have been followed properly within the IEPA, and based on recent emails we appear have no recourse offered from the IEPA other than to attempt to comment between the construction permit and operating permit. We contend that the construction permit, issued in lieu of a proper EJ review, is likely invalid to begin with due to failure of procedures and lack of appropriate outreach as outlined by the IEPA.

Considering this information, we are requesting possible federal oversight or intervention in this construction permit and further permitting and monitoring of this operator. We are requesting information on what our recourse is at this point in interfacing with the IEPA as well as MAT Asphalt LLC. Before a firm action is taken we are also requesting additional information to help understand what the consequences of these actions may be, such as

Whether we may forfeit other rights we have as citizens

Whether we forfeit rights for future legal actions.

The pros and cons of federal oversight of this permit and operator, as in, does it limit our ability to comment, appeal, or otherwise monitor this permit.

In any case we are requesting a proper EJ review be conducted, with aspects such as community meetings, comment periods, meetings with environmental officials, impact studies, monitoring, and review of permitting prior to operations either beginning or continuing.

We understand this is a large amount of information, and we imagine you will need time to read, process, and sort through it. We would be glad to provide additional documentation or to talk on the phone. Overall this process has been startling to the community and our group, and it is not until we received our FOIA request that we realized part of the story of how we received this plant without notification, outreach, or other procedures which we are apparently entitled to.

Thank you for your time in reading and responding to this email, we deeply appreciate it.

Neighbors for Environmental Justice